Supreme Court, U.S.
FILED
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No. 00-6374

IN THE
Supreme Court of the United States

DALE G. BECKER,

Petitioner,

v.

BETTY MONTGOMERY, ATTORNEY GENERAL OF OHIO, *et al.*,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF FOR PETITIONER

After initial input from three sources—the State of Ohio, Mr. Becker and the court-appointed *amicus curiae*—four observations cannot be challenged: (1) Mr. Becker did just what Appellate Rule 3(c)(1)(A) required him to do in completing the notice of appeal—"specify the party or parties taking the appeal . . . ; designate the judgment, order or part thereof appealed from; and name the court to which the appeal is taken"; (2) neither the Federal Rules of Civil Procedure nor those of Appellate Procedure, nor for that matter any federal statute, expressly conditions jurisdiction in the federal courts of appeal on the existence of a pen-and-ink signature on the notice of appeal; (3) no published decision from any federal court (of which we are aware) has ever held to the contrary in the context of a case involving a single appellant; and (4) from the beginning of this dispute to the present, no one has questioned Mr. Becker's "intent to appeal," which is all that Appellate Rule 3(c)(4) required him to make "clear" before he could have his day in an appellate court.

In the face of these truths, the *amicus curiae* makes several textual and policy arguments, all of which bring more credit to the inventiveness of the *amicus* than they do to the merits of the claims themselves. The extensive chain of implications and inferences required to sustain the textual arguments cannot be squared with the straightforward words of the Rules themselves. And even the most unvarnished appeal to policy cannot justify terminating the cause of Mr. Becker, whose only offense here was acknowledging that he was "(Counsel for Appellant)" when he provided a typewritten rather than a pen-and-ink designation of his name on the notice of appeal. His case, we respectfully submit, should be heard.

1. ***Amicus* does not defend the reasoning of the Sixth Circuit.** Conspicuously missing from the brief of the *amicus* is any effort to defend the Sixth Circuit's jurisdictional rule on its own essential terms. In the court of appeals' view, "Fed. R. App. P. 4(a)(1), in conjunction with Fed. R. Civ. P. 11(a),

requires that a party sign the notice of appeal in order to confer jurisdiction on the courts of appeals." *Mattingly v. Farmers State Bank*, 153 F.3d 336, 337 (6th Cir. 1998); J.A. 16. Because App. Rule 4(a)(1) requires a notice of appeal to "be filed with the district clerk within 30 days" of the judgment and because Civil Rule 11 requires all "pleadings" and "other paper[s]" to "be signed by the party" or an attorney, the Sixth Circuit reasoned that failure to comply with the signature requirement within 30 days defeats appellate jurisdiction. *Id.*

The *amicus* correctly declines to defend this line of reasoning. By itself, App. Rule 4 does not contain any signature requirement, but merely re-states the 30-day rule provided by statute. *See* 28 U.S.C. 2107(a). And while Civil Rule 11 says that "[a]n unsigned paper shall be stricken," it permits that draconian remedy only if "omission of the signature" is not "corrected promptly after being called to the attention of the attorney or party." Since no one "called" the alleged "omission of the signature" to "the attention of" Mr Becker and since no one thus gave him an opportunity to correct the alleged defect, this explanation for dismissing the appeal is not a tenable one.

2. **Mr. Becker did not fail to "specify" that he was the appellant.** Also incorrect are the alternative theories that *amicus* proposes for affirming the judgment. He first turns to App. Rule 3(c)(1)(A), which provides that the notice of appeal must "specify the party or parties taking the appeal by naming each one in the caption or body of the notice." Invoking the mandate that a notice of appeal must "specify" the appellant, *amicus* argues that no such specification ever occurs in the absence of a pen-and-ink "signature." *See* Br. at 23-24 (signature requirement "was intended as an interpretation of the jurisdictional requirement that the notice of appeal must specify the party or parties appealing"). But to embrace this theory is to slight Rule 3(c)(4), which flatly bans any such basis for dismissing an appeal. "An appeal must not be dismissed,"

that rule says, "for failure to name a party whose intent to appeal is otherwise clear from the notice." At no time has the State of Ohio, or even *amicus*, expressed any doubt about Mr. Becker's "intent to appeal." *See* Ohio Br. at 3, 5, 22. The rules do not support a failure-to-specify claim here.

Nor does precedent. Far from amounting to the beacon of interpretation that *amicus* suggests it is (Br. 4), *Covington v. Allsbrook*, 636 F.2d 63 (4th Cir. 1980), *cert. denied*, 451 U.S. 914 (1981), merely illustrates when the specification requirement correctly applies and when a signature may assist in meeting it. The notice of appeal in that case, as in *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988), did not indicate who among three plaintiffs was appealing and who was not. It merely listed one name, followed by "*et al.*," and was signed (whether by pen and ink the opinion does not say) by the one fully-identified appellant. Under these circumstances, the Fourth Circuit concluded that the "term 'et al.' does not inform any other party or any court as to which of the plaintiffs desire to appeal in this case." 636 F.2d at 64. That of course was correct, and anticipated this Court's decision in *Torres* eight years later. What was not correct was the appellate court's later *dictum* that "[t]he only means of determining which litigants are interested in pursuing an appeal is by requiring each pro se party to personally sign the notice of appeal." *Id.* This conclusion is not true in the context of a notice of appeal that, unlike *Covington*, *does* specify each appellant in the body of the notice of appeal—no matter who signs the document, no matter how the individual signs it and indeed no matter whether anyone initially signs the document at all. And the *Covington* conclusion is even less true in the context of a single litigant like Mr. Becker, who not only identified himself as an appellant in the body of the notice but who also typed his name on the alleged signature line.

No doubt specification of the party or parties taking an appeal is a jurisdictional prerequisite. But the means of

satisfying this mandate are not as unremittingly narrow as *amicus* submits. As App. Rule 3(c)(4) explains, the touchstone of specification is "intent to appeal." While a handwritten signature offers a sufficient basis for satisfying this requirement, it is not a necessary one and it thus is not the only one. Also sufficient are an identification of the appellant(s) in the body of the notice of appeal *or* a typewritten signature or signatures at the bottom of it. Mr. Becker did both, and accordingly cannot fairly have his desire to appeal questioned at this late date.

3. The sample notice of appeal attached to the Appellate Rules does not create a jurisdictional signature requirement. Contrary to the *amicus*'s contention (Br. 5, 7-8), the sample notice of appeal included with the Federal Rules of Appellate Procedure does not alter this interpretation. That notice, it is true, contains an "(s)" mark on what appears to be the signature line to the notice of appeal. But that "(s)" is more red herring than Rosetta Stone. What after all does an "(s)" signify in this context? Why, for example, would it cover only pen-and-ink signatures as opposed to typewritten ones? And why would it make the signature one of a discrete number of appellate *jurisdictional* requirements, as opposed to one of many *procedural* requirements that may be corrected in the course of the appeal. Only a most subtle and ultimately mean-spirited scrivener would establish an unyielding pen-and-ink signature requirement in this indirect manner.

Nor do the Rules incorporate this form as part and parcel of the requirements of the Rules themselves; nor do they designate this form (to say nothing of the innocuous "(s)") as the exclusive means for establishing a litigant's "intent to appeal." And that presumably is why the courts of appeal have not placed any reliance on the sample notice. While *amicus* may be correct (Br. 5) that the sample notice of appeal attached to the Federal Rules of Appellate Procedure contains the "(s)" mark, *see* A-1 (attached to this brief), the Notice of

Appeal (Form 6CA-3) that the Sixth Circuit includes among its "Selected Forms for use in the United States Court of Appeals for the Sixth Circuit" does *not*. It does not contain an "(s)" and it does not contain any other indication that a signature is required. *See* A-2 (attached to this brief). It instead contains a line marked "(Counsel for Appellant)."

Notably, this is the very form that was used in this case. After Mr. Becker lost at the trial court, he promptly wrote the Sixth Circuit asking for a notice-of-appeal form and was sent a government-printed form corresponding to Form 6CA-3. *See* Appendix to Petition, Notice of Appeal, Ex. C (containing a "U.S. GPO" designation in the lower-right corner); J.A. 12. Wishing to leave no mistake as to who was representing him, Mr. Becker typed his own name on the line marked "(Counsel for Appellant)." In the end, any battle over the forms provided by the Federal Rules of Appellate Procedure versus those provided in the Sixth Circuit Rules ultimately bolsters Mr. Becker's theory. The differing "signature" lines confirm that handwritten signatures represent a sufficient, but not a necessary, condition for specifying an intent to appeal. *Compare* Reply Br. A-1 (Appellate Rules) with *id.* at A-2 (Sixth Circuit Rules). *See also id.* at A-3 & A-4 (including other Sixth Circuit notice-of-appeal forms); *id.* at A-5 (pre-1993 Appellate Rules notice-of-appeal form).

4. Appellate Rule 3(c)(2) does not impose a jurisdictional *signing* requirement on *pro se* appellants. *Amicus* next contends (Br. at 28) that the Rules themselves, as opposed to a sample form, impose a signature requirement and that they do so only with respect to *pro se* appellants. The source of this latent requirement, *amicus* contends, is App. Rule 3(c)(2), which provides that "[a] pro se notice of appeal is considered filed on behalf of the signer and the signer's spouse and minor children (if they are parties), unless the notice clearly indicates otherwise." According to *amicus*, the drafters of the Appellate Rules imposed a jurisdictional

signature requirement on *pro se* appellants when they added the above language in 1993.

Far from suddenly creating a jurisdictional signature requirement, App. Rule 3(c)(2) merely provides that a *pro se* notice of appeal will be understood to include the spouse and minor children of the *pro se* appellant if they were parties below. That is presumably why the Rule says that an appeal will be "considered" filed on behalf of the signer and the signer's family members rather than saying it *must* be signed to be accepted. The clarification also was required because unnamed family members might otherwise not be treated as appellants in light of the jurisdictional intent-to-appeal requirement and because *pro se* litigants customarily do not represent other parties.

Any doubt about the non-jurisdictional nature of this provision is confirmed by the caveat at the end of App. Rule 3(c)(2). The rule concludes with the essential phrase "unless the appeal clearly indicates otherwise." In other words, *pro se* appellants may clearly reveal their family members' desire to appeal in other ways, just as they may show an intent to appeal in a variety of ways. *Amicus*'s reading of the provision simply does not account for this phrase. To the extent the Rule purports to create a signature requirement to establish an intent to appeal for *pro se* litigants, as *amicus* submits, the "unless" caveat allows that intent to be established through other means. Otherwise, the caveat would serve no purpose, an interpretation that the Court has previously rejected in other interpretive disputes regarding the jurisdiction of the appellate courts. *See Hohn v. United States*, 524 U.S. 236, 249 (1998).

Nor likewise does *amicus*'s reading account for the similar caveat contained in App. Rule 3(c)(4). To repeat, that provision says that an appeal "must not be dismissed . . . for failure to name a party whose intent to appeal is otherwise clear from the notice." There is nothing in App. Rule 3(c)(2) that directly or even subtly purports to alter that mandate. And

no one can fairly challenge Mr. Becker's satisfaction of that requirement here.

5. **An examination of the workings of the Advisory Committee confirms that Rule 3(c)(2) does not impose a jurisdictional signing requirement.** *Amicus*, however, insists that the meaning of App. R. 3(c)(2) can best be plumbed not from its language or from other language in the Appellate Rules but from a unique shard of Committee intent—an advocacy group's proposal that the Committee did not accept. Specifically, *amicus* relies on the fact that the relevant language of the 1993 amendments ("A notice of appeal filed *pro se* is filed on behalf of the party signing the notice and the signer's spouse and minor children, if they are parties, unless the notice of appeal clearly indicates a contrary intent.") differs from that proposed by the Public Citizen Litigation Group, which contained no reference to signatures. Br. 22-23. *Amicus* concludes that the Committee must have intended to add a jurisdictional, *pro se* signature requirement because "[i]t is hard to see any other reason for rewriting the original Public Citizen proposal." *Id.* at 24.

Yet many other explanations exist for this development. Most notably and most naturally, the Committee simply meant to create a presumption regarding whether *pro se* litigants meant to include family members as appellants. That is what the words say and that is what the Committee Notes suggest. *See* Fed. R. App. P. 3 advisory committee's note (1993 amendments). But even if the Rule were promulgated with the expectation that *pro se* litigants would "sign" their notices of appeal, it does not follow that the requirement is jurisdictional. Even the Seventh Circuit decisions on which *amicus* relies (Br. 24) and in which Committee member Judge Ripple participated, do not reach this conclusion. *See Lewis v. Lenc-Smith Mfg. Co.*, 784 F.2d 829, 831 (7th Cir. 1986) (while "other courts have dismissed the appeals of *pro se* appellants who failed to sign the notice of appeal, . . . we believe that the

better procedure is to allow [the *pro se* plaintiff] the opportunity to remedy the omission"), and *Robinson v. City of Chicago*, 868 F.2d 959, 963 n.2 (7th Cir. 1989) ("an unsigned notice of appeal, even if it does not meet the demands of Fed. R. Civ. P. 11, meets the jurisdictional requirements for appeal").

Neither does it seem likely that the Committee would have wished to impose an independent, *jurisdictional* signing requirement on *pro se* appellants alone. The general rule is that the allegations of a *pro se* pleading, "however inartfully pleaded," are held "to less stringent standards than formal pleadings drafted by lawyers." *Haines v. Kerner*, 404 U.S. 519, 520 (1972). And while "the liberal pleading standard of *Haines* applies only to a [*pro se*] plaintiff's factual allegations," *Neitzke v. Williams*, 490 U.S. 319, 330 n.9 (1989), the Court has never held that a *pro se* plaintiff should be held to a *higher* standard than parties represented by counsel. Against this backdrop, the Committee could certainly have been expected to make any such new jurisdictional requirement explicit. Yet, plainly, it did not.

6. **The Advisory Committee could not, and did not, ratify contrary decisions of the federal appellate courts.** Still more implausible is the claim (*Amicus* Br. 4) that the 1993 amendment "fully ratified the practice of the courts of appeals in treating *pro se* signatures as a jurisdictionally necessary element of the notice of appeal." There was in fact no such practice to ratify, let alone a uniform one. *Cf. Power Reactor Dev. Co. v. Int'l Union of Elec. Radio and Machine Workers, AFL-CIO*, 367 U.S. 396, 408-09 (1961).

For starters, no published case of which we are aware has ever held that signing the notice of appeal is jurisdictional in the context of a single appellant (as here). *See Price v. United States Navy*, 39 F.3d 1011, 1015 (9th Cir. 1994) (dismissal of *pro se* appeal not warranted because "[i]t is clear from the notice of appeal and other papers that she is the only appellant

in this case"); *McNeil v. Blackburn*, 802 F.2d 830, 832 (5th Cir. 1986) (accepting timely, but unsigned, notice of appeal); *Lewis v. Lenc Smith Mfg. Co.*, 784 F.2d 829, 831 (7th Cir. 1986) ("better procedure is to allow [the party] an opportunity to remedy the [signature] omission"); *Robinson v. City of Chicago*, 868 F.2d 959, 962 n.2 (7th Cir. 1989) (refusing to treat the lack of a signature on a notice of appeal as a jurisdictional defect); *Thiem v. Hertz Corp.*, 732 F.2d 1559, 1562 (11th Cir. 1984) (notice of appeal with typed names of counsel and appellant was sufficient to give jurisdiction over appeal even though notice was not signed by counsel). The only practice to ratify here is one that sustains Mr. Becker's appeal.

Even as to multiple appellants, the practice was not uniform before 1993. While some cases dismissed multiple-party appeals where only one appellant (or no appellant) had signed the notice of appeal, *see, e.g., Covington v. Allsbrook*, 636 F.2d 63 (4th Cir. 1980), *cert. denied*, 451 U.S. 914 (1981); *Mikeska v. Collins*, 928 F.2d 126 (5th Cir. 1991), at least one case refused to dismiss the appeal where both appellants were listed in the body of the notice of appeal, *see James v. United States*, 970 F.2d 750 (10th Cir. 1992). Likewise, no pre-1993 case or any case since has dismissed an appeal when the appellant signed the appeal with a typewriter rather than in pen and ink. Here, too, there was no uniform practice to ratify, at least not one that supports *amicus*'s interpretation. The ratification claim cannot be sustained.

7. **To the extent they wish to do so, courts of appeal may remedy typewritten signatures on notices of appeal.** *Amicus* next weaves together (Br. 15-18) an elaborate argument regarding the inability of courts of appeal and district courts to correct "unsigned" notices of appeal. The gist of the contention appears to be that Civil Rule 11 imposes a jurisdictional signing requirement on notices of appeal and simultaneously precludes courts of appeal (and district courts)

from exercising the power granted under the Rule to allow the "omission of the signature" to be "promptly corrected after being called to the attention of the attorney or the party." The theory, however, begs more questions than it answers.

First, the language of Rule 11 establishes that the authority to dismiss any pleading or case (whether an appeal or not) exists only with respect to unrepentant litigants—those who decline to correct a procedural defect called to their attention by the court. If it is somehow true that neither district courts nor appellate courts may allow litigants to correct unsigned notices of appeal, that only means any authority under Rule 11 to dismiss the appeal does not exist. The Sixth Circuit's decision cannot be upheld on this theory.

Second, the theory underestimates the power of the courts of appeal. So long as the notice of appeal satisfies the jurisdictional requirements provided by statute and by the Appellate Rules—(1) the 30-day requirement and (2) notice of intent to appeal as to each appellant—appellate courts (and the clerks of those courts) are always free to correct other procedural deficiencies. Here, for example, Mr. Becker's notice of appeal easily satisfied both requirements, and at that point if the court wished to have a pen-and-ink signature on the notice of appeal it was free to ask him to provide one after the fact. That after all is the role of App. Rule 2, which provides that a court of appeals may "suspend any provision of these rules" other than the jurisdictional filing deadlines, and "order proceedings as it directs." *See also Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (federal courts possess "implied powers" that are "governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases") (quotations omitted).

That also explains *Smith v. Barry*, 502 U.S. 244 (1992). There, the Court held that appellate courts may treat a merits brief as a notice of appeal and thus forgive a far-more-serious

defect in the notice of appeal than any defect in Mr. Becker's notice. Nothing in *Smith* indicates that this lower-court authority turns on whether the merits brief *qua* notice of appeal is "signed"; indeed, nothing in *Smith* says one way or the other where the brief *was* signed. *Smith* then proceeds to explain how non-jurisdictional irregularities in an appeal may be corrected after the fact. "Having accepted [the brief] as the notice of appeal required by Rule 3, an appellate court might require timely filing of a second document meeting its standards for a brief or, if the paper meets those standards, take such other action as it deems appropriate to ensure that the filing sequence contemplated by the Rules is not disturbed." 502 U.S. at 249. So too here. Having accepted Mr. Becker's notice as the notice of appeal required by Rule 3, the court of appeals may require a second signed notice or may simply waive the requirement in accordance with the discretion vested in it by Rule 2. The contention that courts of appeal somehow lack authority to make such orders is simply mistaken.

This Court in fact frequently accepts defective filings so long as the defect is not jurisdictional. In those cases, although the Court asks the non-complying party to remedy its defective filing, it does not dismiss the pleading, or the case itself, in its entirety. *See* Ohio Br. at 16. That also is the procedure the Sixth Circuit customarily follows. In one of Mr. Becker's other cases, the Sixth Circuit's clerk sent a letter to Ms. Dawn M. Tarka, of the Office of the Ohio Attorney General, informing her that the State's briefs "do[] not comply with the relevant Federal Rules of Appellate Procedure or the Sixth Circuit Rules" because, among other reasons, they were not signed. The letter proceeds to request Ms. Tarka to correct the defect by sending the court signed copies of the briefs. *See* A-6 (attached to this brief); Appendix to Petition, Notice of Appeal, Ex. B. The same procedure should have been invoked here.

8. **A typewritten identification of one's name satisfies any signature requirement in the Appellate or Civil Rules.** In response to the argument that neither the Appellate nor Civil Rules require handwritten signatures, *amicus* is unable to offer anything more than equivocal evidence that relevant dictionaries (and other definitional sources) use the term "signature" only to apply to handwritten designations of one's name. Had the drafters of the relevant Rules meant to preclude typewritten signatures and had they meant to do so as a jurisdictional matter, surely they would have specified the requirement in the same clear way that they spelled out the 30-day rule.

Amicus is on even weaker ground in claiming that Mr. Becker's typewritten designation of his name failed to satisfy the *function* of a notice of appeal. As noted, the key function of a notice of appeal is to convey the appellant's "intent to appeal." A typewritten signature plainly satisfies that aim in the context of a single *pro se* appellant. *Amicus* further claims that a signature is needed to provide "objective evidence" of the party's intent to appeal, Br. at 33, and to provide "other important institutional indicators of authenticity," *id.* at 33-34. But this contention has no application to Mr. Becker. His notice included ample evidence of his intent to appeal, including indicators of authenticity other than his typed name. It included his name and address, the case name and caption, the respondent's name, and the name and judge of the court below. And because there was only one party who could have appealed, there was no confusion as to the identity of that party.

The risk of impostor appellants, at any rate, seems more contrived than real. It would seem to be the rare individual that would take responsibility for a loss in the district court, achieve appellant status, then suddenly disavow any intent to appeal. Nor has *amicus* cited even one lower-court case, let alone a deluge of cases, raising this curious problem.

In fact, the State of Ohio—which undeniably has an interest in ascertaining the identity of those taking an appeal—correctly points out that the concerns of courts of appeal in confirming a desire to appeal is amenable to a far simpler remedy. It may be resolved by the district or appellate court directing parties to show cause why the appeal should not be dismissed (1) as to non-signing parties who are listed in the body of the notice of appeal, or (2) as to parties who sign by means of a typewritten rather than a handwritten designation of their name. *See* Ohio Br. at 16. But if the threshold prerequisite of establishing an intent to appeal has been established within the correct time frame, as it plainly was in Mr. Becker's case, then the appeal may not be dismissed for lack of jurisdiction.

* * *

Rules are rules, it is assuredly true. And it is even more true in the context of limitations on the jurisdiction of the federal courts. But just as federal courts must resist assuming jurisdiction that they have not been given, *see Whitmore v. Arkansas*, 495 U.S. 149, 161 (1990) ("[i]t is not for this Court to employ untethered notions of what might be good public policy to expand our jurisdiction in an appealing case"), so they may not decline jurisdiction that Congress has asked them to exercise, *see Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 716 (1996) ("We have often acknowledged that federal courts have a strict duty to exercise the jurisdiction that is conferred upon them by Congress."). When it came to this notice of appeal, Mr. Becker did everything that Congress asked of him—and more. That he was a *pro se* litigant, that the *amicus* seems to think little of his claim, *see Amicus* Br. at 13-14 & Lodging Vol. II, and that the State of Ohio thinks even less, *see* Ohio Br. at 23-24, are all matters to take up with the National Legislature. They do not supply a basis for denying Mr. Becker his day in court.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted,

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April 2001 — Counsel for Petitioner

APPENDIX

APPENDIX

APPENDIX OF FORMS

FRAP FORM 1. NOTICE OF APPEAL TO A COURT OF APPEALS FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

United States District Court for the
_____ District of _____

File Number _____

A.B., Plaintiff	)	
v.	)	Notice of Appeal
C.D., Defendant	)	

Notice is hereby give that (here name all parties taking the appeal), (plaintiffs) (defendants) in the above named case,* hereby appeal to the United States Court of Appeals for the _____ Circuit (from the final judgment) (from an order (describing it)) entered in this action on the ___ day of _____, 19___.

(s)_____
Attorney for_____
Address:_____

*See Rule 3(c) for permissible ways of identifying appellants.
[Amended April 22, 1993, effective December 1, 1993.]

FORM 6CA-3. NOTICE OF APPEAL

UNITED STATES DISTRICT COURT

FOR THE _____ DISTRICT OF _____

_____

Docket Number_____

_____

_____ (District Court Judge)

NOTICE OF APPEAL

Notice is hereby given that _____ appeals to the United States Court of Appeals for the Sixth Circuit from the (__) Judgment (__) Order (__) Other (specify) _____ entered in this action on _____
(Date)

_____
(Counsel for Appellant)

Address _____
_____
_____
_____

Phone: _____

6CA-3
8/79

COPY 1-ORIGINAL
COPY 2-DUPLICATE

United States District Court for the_____
District of _____

_____
_____
_____
Plaintiff,

vs. CASE NO._____

_____
_____
_____
Defendant.

NOTICE OF APPEAL

Notice is hereby given that_____,
(here name all parties taking the appeal)
hereby appeal to the United States Court of Appeals for the Sixth Circuit from _____
(the final judgment) (from an order (describing it))
entered in this action on the _____ day of _____, _____.

(s)_____
Address:_____
_____
_____
Attorney for _____

cc: Opposing Counsel __
Court of Appeals __

6CA-3
1/99

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____
Plaintiff/Appellant

Case Number:

_____
Defendant(s)/Appellee

NOTICE OF APPEAL

NOTICE is hereby give that _____, plaintiff/defendant, in the above case, hereby appeals to the United States Court of Appeals for the Sixth Circuit from the final judgment entered in this action on the _____ day of 19___.

_____
(Signature of Plaintiff/Defendant)

_____
(Address)

_____
(City/State)

_____
(Telephone No.)

APPENDIX OF FORMS

Form 1. Notice of Appeal to a Court of Appeals From a Judgment or Order of a District Court

United States District Court for the _____
District of _____

File Number _____

A. B., Plaintiff

v. Notice of Appeal

C. D., Defendant

Notice is hereby given that C.D., defendant above named, hereby appeals to the United States Court of Appeals for the _____ Circuit (from the final judgment) (from the order (describing it)) entered in this action on the _____ day of _____, 19___.

(s)_____

_____
(*Address*)
Attorney for C. D.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 532
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

LEONARD GREEN
CLERK

VALERIE FIELDS FIELD
(513) 564-7024

Filed: July 18, 2000

Ms. Dawn M. Tarka
Office of the Attorney General
Corrections Litigation Section
140 E. Town Street
14th Floor
Columbus, OH 43215-6001

Re: 00-3631
Becker vs. Ghee
District Court No. 99-00966

Dear Counsel:

This is to advise you that on July 17, 2000 we received the briefs you submitted on behalf of your client. Upon review we we [sic] have determined that it does not comply with the relevant Federal Rules of Appellate Procedure or the Sixth Circuit Rules, in the following manner:

No Form of Appearance of Counsel was filed. The form is enclosed.
The briefs need attorney's signature on conclusion page.
Please do not call document "final" because the Court considers this a regular appellee brief.

Accordingly, we ask that you submit an original and six (6) copies of the signed conclusion page and appearance of counsel from to this office not later than 7/24/00. No

extensions will be granted. Upon receipt, the corrected copies will be substituted for the original filing, which will then be discarded.

Thank you for your cooperation with this request. Any inquiries you may have can be addressed to the undersigned.

Leonard Green, Clerk

(Ms.) Valerie Fields
Deputy

cc: Dale G. Becker